In the United States Court of Federal Claims

(Not for Publication)

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GREGORY D. WALSH,	*	No. 06-609C
Plaintiff,	*	Filed: February 5, 2007
v.	*	
UNITED STATES OF AMERICA,	*	
Defendant.	*	
* * * * * * *		

ORDER AND OPINION

Plaintiff Gregory D. Walsh filed a Complaint pro se in the United States Court of Federal Claims, seeking various forms of relief for alleged violations of government officials during his criminal prosecution. He asked the court to appoint "a special master" and to grant "[a] full injunction of all Federal Funds to the State of Iowa." Mr. Walsh listed as defendants the United States District Court for the Northern District of Iowa, an individually named United States Attorney, and the United States Department of Health and Human Services. Plaintiff also filed a request to proceed in forma pauperis.

Defendant moved to dismiss this case for lack of subject matter jurisdiction on October 31, 2006. See Rule 12(b)(1). Plaintiff filed his response on November 15. The Government did not file a reply.

DISCUSSION

This court does not hold pro se litigants to the same exacting standards as formal pleadings drafted by lawyers. See, e.g., Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curium). Pro se status does not immunize a plaintiff from meeting jurisdictional requirements, however. See Kelley v. Sec'y, U.S. Dep't of Labor, 812 F.2d 1378, 1380 (Fed. Cir. 1987) ("[L]eniency with respect to mere formalities should be extended to a pro se party . . . . However, . . . a court may not similarly take a liberal view of [a] jurisdictional

requirement and set a different rule for pro se litigants only.").

The burden is on the plaintiff in cases such as this where the Government has raised the issue of subject matter jurisdiction through a Rule 12(b)(1) motion to dismiss. Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988). A plaintiff needs only to set forth a prima facie showing of jurisdictional facts to survive a motion to dismiss. Raymark Indus., Inc. v. United States, 15 Cl. Ct. 334, 338 (1988). This court considers the facts alleged in the Complaint to be correct. Scheuer v. Rhodes, 416 U.S. 232, 236 (1974). We will deny the motion unless "it appears beyond doubt that [plaintiff] can prove no set of facts in support of [its] claim which would entitle [it] to relief." Frymire v. United States, 51 Fed. Cl. 450, 454 (2002) (quoting Davis v. Monroe County Bd. of Educ., 526 U.S. 629, 654 (1999)).

Jurisdiction in the United States Court of Federal Claims arises from the Tucker Act. See 28 U.S.C. § 1491. The Tucker Act, however, "does not create any substantive right enforceable against the United States for money damages." United States v. Testan, 424 U.S. 392, 398 (1976). To establish jurisdiction, plaintiff's claim must mandate the payment of money and be "founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States." 28 U.S.C. § 1491(a)(1). Mr. Walsh asserts generally that "the Constitution" provides jurisdiction, but he has not alleged a "money-mandating" constitutional provision or any other basis for Tucker Act jurisdiction in this court.

Among the offenses that Mr. Walsh attributes to government officials are kidnaping in the first degree, coercion to sign involuntary hospitalization papers, and wrongful prosecution. This court does not have jurisdiction to hear claims alleging tortious government misconduct. See LeBlanc v. United States, 50 F.3d 1025, 1030 (Fed. Cir. 1995) ("The Tucker Act suit in the [Court of Federal Claims] is not . . . available to recover damages for unauthorized acts of government officials.") (quoting Fla. Rock Indus., Inc. v. United States, 791 F.2d 893, 898 (Fed. Cir. 1986)). In fact, the Act explicitly precludes this court from exercising jurisdiction over cases "sounding in tort." 28 U.S.C. § 1491(a)(1).

Mr. Walsh's allegations are difficult to discern, but he may be pleading false imprisonment. If so, the appropriate authority is 28 U.S.C. § 1495. It reads: "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim for damages by any person unjustly convicted of an offense against the United States and imprisoned." Id. We interpret section 1495 in conjunction with 28 U.S.C. § 2513. See Lott v. United States, 11 Cl. Ct. 852, 852 (1987).

Section 2513 states that

(a) [a]ny person suing under section 1495 of this title must allege and

prove that:

(1) His conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction and

(2) He did not commit any of the acts charged or his acts, deeds, or omissions in connection with such charge constituted no offense against the United States, or any State, Territory or the District of Columbia, and he did not by misconduct or neglect cause or bring about his own prosecution.

(b) Proof of the requisite facts shall be by a certificate of the court or pardon wherein such facts are alleged to appear, and other evidence thereof shall not be received.

28 U.S.C. § 2513. Courts narrowly construe section 2513, which requires specific proof of an unjust conviction and imprisonment from a court of competent jurisdiction. See, e.g., Hadley v. United States, 106 Ct. Cl. 819, 820 (1946) (holding that facts must "appear in a certain way, that is, by a certificate of a court or a pardon containing a recital of these facts."). It seems from plaintiff's records that he was never convicted. The document that Mr. Walsh provided to the court amounts to an acquittal: "This matter came on for a jury trial October 17, 2005. The jury returned its verdicts October 18, 2005. Based upon the jury's verdicts, the charges against the defendant are dismissed and the defendant is released from all bonds." This decree does not meet the statute's requirements. See Rigsbee v. United States, 204 F.2d 70, 72 (D.C. Cir. 1953).

Rule 53 states that the chief judge of the United States Court of Federal Claims "may appoint a master" if warranted by the circumstances set forth in the Rule. Because the court has concluded that it lacks jurisdiction over all of plaintiff's claims, appointing a special master in this case is not justified.

CONCLUSION

We examined plaintiff's Complaint carefully and attempted to analyze each of his assertions. The Tucker Act permits jurisdiction in this court over claims against the United States, not individual defendants. See United States v. Sherwood, 312 U.S. 584, 588 (1941) ("[J]urisdiction is confined to the rendition of money judgments in suits brought for that relief against the United States.") (emphasis added). Construing plaintiff's claims as being

against the United States, he nonetheless did not establish jurisdiction in this court over such claims. Plaintiff's motion to proceed in forma pauperis is GRANTED. Defendant's motion to dismiss pursuant to Rule 12(b)(1) is GRANTED. The Clerk of Court will dismiss plaintiff's Complaint for lack of subject matter jurisdiction.

Plaintiff's "Motion for Judgment on Briefs" asks the court to enter various judgments for which it lacks authority. The motion does not satisfy the rules of this court and remains unfiled. The Clerk will return the document to the plaintiff. No costs.

SO ORDERED.

s/ Robert H. Hodges, Jr.
Robert H. Hodges, Jr.
Judge